1 witness, and I will take it under consideration.

2 (The following proceedings were had IN OPEN

3 COURT.)

4 THE COURT: Doctor Hook may resume the

5 stand.

6 CARL TRUMAN HOOK, M.D.,

7 resumed the stand and testified further as follows:

8 CROSS EXAMINATION (cont'd.)

9 BY MR. JENNINGS:

10 Q. Good morning, Doctor.

11 A. Good morning.

12 Q. Doctor, I believe that yesterday I asked you

13 about the paper in the Archives of Otolaryngology

14 that contained a case report on a 19-year-old male

15 and also contained some review of the literature, and

16 I think you said that you thought you had seen that

17 report; is that correct?

18 A. Yes, sir.

19 Q. When did you see it?

20 A. I don't recall that. I have read a lot of

21 articles in the last few months, so I can't tell you

22 when I read it.

23 Q. Has it been sometime since your deposition

24 was taken?

25 A. It could have been.

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1 Q. I believe that in your deposition -- you
2 said you hadn't read anything about tongue cancer in
3 young people?
4 A. Yes.
5 Q. So it has been since then; is that --
6 A. It probably was.
7 Q. All right, sir. Let me ask you this, Doctor
8 Hook. If a doctor in Ada, Oklahoma, was curious
9 about what was in the literature concerning young
10 people and tongue cancer, how would he go about
11 finding out?
12 A. You can resort to your own literature, your
13 own textbooks that you have, and then you can put a
14 search into the library, have them obtain literature
15 from the University of Oklahoma Health Sciences
16 Center, and you can have books, articles, reprinted,
17 sent to you in that fashion.
18 Q. Is that a request that is made from the
19 library at Ada or the Valley View library, or is that
20 one that you could make directly to the University of
21 Oklahoma?
22 A. Either way.
23 Q. You can pick up the telephone and say you
24 wanted printouts showing all of the articles that
25 related to young people in tongue cases?

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1 A. Yes, they can.

2 Q. And they have got that all computerized?

3 They can get you a printout in a matter of minutes if

4 they didn't have it ahead of you?

5 A. I think so.

6 Q. And if you wanted them to, you can ask them

7 to make copies of the articles that you wanted after

8 you looked at the printout list?

9 A. Yes, sir.

10 Q. And that would be something that could be

11 done very quickly and with a minimum of effort on the

12 part of the doctor; is that correct?

13 A. That's correct.

14 Q. All right, sir.

15 Q. I believe when we adjourned yesterday,

16 Doctor Hook, we were discussing or about to discuss

17 an article in the American Journal of Surgery, Volume

18 144, No. 4, and I believe I have just handed you a

19 copy of the -- handed you the volume in which that

20 article appears.

21 I will ask you if you will look at that and

22 if that is an article from the Departments of Surgery

23 and Radiation Oncology of the University of Toronto,

24 Toronto, Ontario, Canada, --

25 A. Yes, it --

http://legacy.library.ucsf.edu/tid/ccf07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/nzhl0001

1 Q. -- and the authors are -- it is entitled
2 "Malignant Tumors of the Head and Neck in a Young
3 Population," is it not?
4 A. Yes, sir, it is.
5 Q. And the authors are a Doctor Clark, Rosen,
6 and Laperriere; is that correct?
7 A. Yes, sir.
8 Q. And at the beginning of that article under
9 Clinical Material it reads, "Herein we reported a
10 retrospective survey of head and neck tumors seen at
11 the Princess Margaret Hospital between 1958 and 1980
12 in patients 30 years of age and younger." Is that
13 correct?
14 A. Yes, sir.
15 Q. That covered a period of some 22 years, '58
16 to '80; is that correct?
17 A. Yes.
18 Q. Then on the second page, Page 460, under the
19 subhead "Tongue and Larynx," it says that "all 14
20 tumors of the larynx and 13 of 15 tumors of the
21 tongue were squamous cell carcinomas. There were two
22 sarcomas of the tongue; is that correct?
23 A. Yes, sir.
24 Q. So that review of the records turned up 13
25 squamous cell carcinomas of the tongue; is that

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1 correct?

2 A. Yes, sir.

3 Q. Going then to the comments on Page 461, it

4 says, "Our primary objective was to focus attention

5 on the instance of malignant tumors most often seen

6 in adults and their prognosis in the young. It was

7 also hoped that some light would be shed on potential

8 etiological factors."

9 Is that correct?

10 A. Yes, sir.

11 Q. And etiological means causes or a source of

12 the problem?

13 A. Is that correct?

14 Q. It goes on to say that "Immunosuppressive

15 therapywas associated with squamous cell carinoma in

16 two patients. The first patient presented at age 22

17 years with carcinoma of the lower lip, six years

18 after renal transplantation. He had been treated

19 with prednisone and Imuran. A carcinoma of the

20 buccal mucosa developed in the second patient at 18

21 years of age.

22 "Juvenile rheumatoid arthritis had developed

23 at age 2 years and has been treated with continuous

24 cyclophosphamide for eight years before the tumor

25 developed. Both patients died within six months of

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1 diagnosis with metastatic and locally aggressive
2 disease respectively.
3 "No other etiologic agents could be
4 implicated in the series due to incomplete
5 documentation."
6 Is that correct?
7 A. Yes, sir.
8 Q. Then under "Summary," it reads, "Malignant
9 tumors in the head and neck region are rare in
10 patients under the age of 30 years," and concludes in
11 the last sentence, "There is an urgent need for
12 better documentation of etiologic factors."
13 Have I read it correctly, sir?
14 A. Yes, you have.
15 Q. (BY MR. FINNEGAN) Doctor Hook, let me show
16 you Volume 146, No. 1, of the American Journal of
17 Surgery for 1983, and refer you to page 89.
18 Q. This article in the American Journal of
19 surgery is entitled "Squamous Cell Carcinoma of the
20 Tongue and Lower Oral Cavity in Patients Under 40
21 Years of Age." Is that correct?
22 A. Yes, sir.
23 Q. And it is shown as being authored by Doctor
24 McGregor, Doctor Davis and Doctor Robins from the
25 Cancer Control Agency of British Columbia, and the

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1 University of British Columbia medical school in
2 Vancouver, British Columbia, Canada; is that correct?
3 A. Yes, it is.
4 Q. It starts out, "Squamous cell carcinoma of
5 the tongue and lower oral cavity has a peak instance
6 of occurrence in patients about 60 years of age and
7 occurs predominantly in men."
8 And skipping the next sentence. "The
9 occurrence of similar cancers in young patients is
10 uncommon. Any one clinician will encounter few such
11 patients.
12 Under "Methods and Materials." "A
13 retrospective review of the records of the Cancer
14 Control Agency of British Columbia between 1944 and
15 1982 revealed that 36 patients under the age of 40
16 years had been treated for squamous cell cancer of
17 the anterior two-thirds of the tongue, the floor of
18 the mouth, the lower alveolus and the buccal mucosa.
19 The distribution of lesions was as follows:
20 Anterior two-thirds of the tongue, 27. The youngest
21 patient was 18 years old at discharge. There were 20
22 women and 16 men.
23 All lesions in patients 30 years and under
24 were tongue cancers, with the exception of one tumor
25 of the floor of the mouth in a 22-year-old woman.

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1 Going on to the top of the next column. "In
2 this retrospective review no specific etiologic
3 factors were obvious. However, it is noteworthy that
4 leukoplakia was present in one-third of all patients,
5 and was especially frequent in patients over the age
6 of 30 years. 7 women and 10 men used tobacco, mainly
7 cigarettes. The exact amounts were not well
8 quantified. Excessive use of alcohol was only
9 recorded in three patients."
10 Going down to "Results." "Carcinoma of the
11 tongue was the dominant lesion in the group of young
12 patients and occurred in 27 of the total group of 36
13 patients. All patients except one under the age of
14 30 had tongue lesions."
15 Have I been reading accurately, sir?
16 A. Only one variance.
17 Q. What?
18 A. The man was 18 at the time of diagnosis, not
19 discharge, is the only thing I saw different.
20 Q. Where was that?
21 A. It is under "Materials and Methods" in the
22 first column.
23 Q. Oh, okay. The youngest patient was 18 years
24 old at discharge?
25 A. You said "discharge," but it reads

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1 "diagnosis."

2 Q. I'm sorry. "Diagnosis." I am having

3 problems. It has to be my glasses. It can't be my

4 eyes.

5 Under the Summary, about the seventh line

6 down, it reads, "There were no apparent etiologic or

7 biologic factors noted."

8 And then under "Discussion," the last

9 paragraph on the right-hand column on page 91, says,

10 "The cause of the squamous cancer of the mouth is

11 puzzling, particularly in young people, because there

12 seems to be little relation to smoking or drinking

13 alcohol."

14 Is that correct? Have I read correctly?

15 A. You have read correctly.

16 Q. Thanks. Do you know any of the doctors who

17 are listed as authors of that --

18 A. No, I do not.

19 Q. Sorry, Doctor. I do not have a volume for

20 the next one, but I can give you a copy of the

21 contents.

22 A. Yes, sir.

23 Q. What I have just handed you, Doctor Hook, is

24 a copy of a publication under Archives of

25 Otolaryngology, which I believe is a publication to

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1 which you subscribe.

2 A. Yes, sir.

3 Q. And it is entitled -- it is Volume 109, No.

4 5, May of 1983, titled "Carcinoma of the Tongue in

5 Persons Younger Than 30 Years of Age."

6 Patients -- " and, incidentally, that's page

7 302, I believe. It begins -- Under "Patients and

8 Methods." "The medical records of 13 patients under

9 30 years of age with squamous cell carcinoma of the

10 tongue treated primarily at the U.C.L.A. Center for

11 the Health Sciences, Los Angeles, and the

12 Northwestern Memorial Hospital in Chicago, were

13 retrospectively analyzed."

14 Going to the next paragraph. "There were 7

15 male and 6 female subjects whose ages range from

16 15 -- " and it says 19, but that is bound to be a

17 misprint, because it goes on to say "with an average

18 age of 23 years."

19 I think that is supposed to read 15 to 29.

20 "Five patients smoked: one heavily, one

21 occasionally, and three moderately (one to two pack

22 years). One patient used alcohol heavily, three

23 drank alcohol occasionally, and nine never drank

24 alcohol. No patients had a history of leukoplakia,

25 poor oral hygiene, dentures, glossitis or syphilis."

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1 Have I read correctly, Doctor?
2 A. Yes, you have.
3 Q. Then under "Comment," at the bottom of the
4 center column on the next page, it reads, "The usual
5 causal agents do not seem to apply to this age group.
6 Isolated cases will have the possible causal agent as
7 in this series, one patient smoked heavily, one drank
8 heavily, and one received external radiation for a
9 facial hemangioma from six months to five years of
10 age followed by implants at age 12 years.
11 One interesting case report is of a
12 26-year-old patient with a renal transplant who
13 received immunosuppressive agents and in whom
14 carcinoma of the tongue developed."
15 Have I read that correctly?
16 A. Yes, you have.
17 Q. Doctor, if I may interrupt this for a
18 moment. I am going to ask you if you agree that
19 there are people who have never used tobacco in any
20 form who develop cancer of the tongue?
21 A. Yes, sir.
22 Q. What causes that cancer?
23 A. We don't always know. Many studies, as we
24 have just been reading, they have not been able to
25 determine etiology. There are multiple causes

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1 obviously.

2 Q. Sir?

3 A. More than one cause obviously.

4 Q. Obviously there are causes of tongue cancer

5 that are unknown to the medical profession.

6 A. I would think so.

7 Q. But there is something besides tobacco that

8 causes oral cancer, isn't there?

9 A. Yes.

10 Q. There's got to be. You couldn't have cancer

11 in nonusers of tobacco if there wasn't something else

12 causing cancer; is that right?

13 A. It is known that there is more than one

14 etiologic agent for cancer of the mouth and tongue,

15 yes, sir.

16 Q. Don't you think it would be important to try

17 to find out what that other cause or those other

18 causes were?

19 A. For what reason?

20 Q. Well, for the principal reason, I guess, to

21 try to do something about it.

22 A. Yes. Are you referring to treatment of this

23 patient, or are you talking in general?

24 Q. I am talking about generally.

25 A. Yes, sir.

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1 Q. It would be important?

2 A. (Nodding yes).

3 Q. All right, sir. Now, do you know yourself

4 of any cause that you believe causes oral cancer, and

5 specifically cancer of the tongue, other than your

6 belief that tobacco does?

7 A. There is an association from smoking

8 tobacco, snuff, as I have said. There is an

9 association for people that do use alcoholic

10 beverages. It is in the literature that there -- in

11 years past, this is particularly the older

12 literature, the turn of the century, 1900, early on,

13 they thought that loose-fitting dentures, abrasion

14 from sharp teeth, it has been alluded to that

15 possibly dietary factors, spicy foods, hot coffee,

16 breathing smog possibly. There are multiple things

17 that have been proposed as being etiologic agents.

18 There are definitely things such as genetic problems,

19 maternal illnesses, maternal -- while the woman was

20 carrying the child, possible drug usage, exposure to

21 carcinogenic agents. Those are all things that you

22 have to determine -- have to find out to try to see

23 if there is a possibility of association.

24 Q. Let's talk a moment about genetics. You

25 mean by that, I take it, that there is some

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1 characteristic that an individual comes into the
2 world with that has --
3 A. That's correct.
4 Q. What about the immune system? Is it
5 involved in any way?
6 A. Yes.
7 Q. How is it involved?
8 A. Well, it's -- this article that we just
9 read, for instance, talked about -- in the last two
10 we talked about immunosuppressant patients have
11 greater instance of head and neck cancer.
12 If you have a depressed immune system, and
13 both of these patients in these studies were taking
14 medicines because of renal transplantation, they were
15 on long-term medication to keep their body from
16 rejecting the kidney. That also evidently keeps
17 their body from warding off cancer, and since we
18 don't always know what causes cancer, you know, maybe
19 it is a virus. Maybe there is a viral etiology for
20 cancer. That is why the research is still being done
21 to determine.
22 Q. Doctor Hook, everybody has the capacity to
23 reproduce cells. You couldn't exist without that,
24 could you?
25 A. We are reproducing right now, all of us.

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1 Q. All of us. And cancer is a result of the
2 reproduction of cells that, in essence, have gone
3 astray; is that right?
4 A. That's a good way of saying it, yes, sir.
5 Q. All right, sir. So cancer doesn't
6 necessarily have to be caused by something outside of
7 the body, does it?
8 A. It doesn't have to be, but there is a strong
9 association with external factors, cause and effect.
10 Q. But obviously something could go wrong with
11 the cell reproduction system without any external
12 involvement.
13 A. It may -- it might be able to. I'm not a
14 scientist enough to understand all that.
15 Q. If you think I understand it, you are badly
16 mistaken. I think I, at least, understand some of
17 the theories, and that's what it all is, isn't it?
18 A. Yes, it is, theory.
19 Q. The truth of the matter, we don't know what
20 causes cancer?
21 A. We do not understand the mechanism of cancer
22 production, no. I certainly don't.
23 Q. And until the mechanism is understood or we
24 come to know what causes it --
25 A. How could we know the mechanism, but we see

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1 the results of cause and effect, but we don't know
2 the exact mechanism of what makes those cells go
3 astray.
4 Q. Well, but we get back to the fact that all
5 you have talked about is what is theorized and what
6 is said, thought to be associated. Now, what do you
7 think actually -- I know about you claim tobacco
8 does, but what else do you think causes cancer of the
9 tongue?
10 A. Cancer of the tongue?
11 MR. BRALY: Excuse me, Your Honor. I will
12 object. He's already asked that question, and it has
13 already been answered.
14 THE COURT: Well, he did review the various
15 causative agents that caused it. What are you
16 pointing to? Something other than that?
17 MR. JENNINGS: Yes, Your Honor. I
18 understood his testimony to be that he was telling
19 what people had speculated might be the cause. I am
20 just wondering which of those, if any, he thinks are
21 the cause.
22 THE COURT: Go ahead.
23 A. All of them could be.
24 Q. (BY MR. JENNINGS) All of them.
25 A. I have to take -- I am not doing the

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1 research, doing the scientific studies, so I have to
2 take studies as we have been reviewing here as
3 theory, as those are all possible causes of cancer of
4 the tongue.
5 Q. Well, do you think the studies that we have
6 been reviewing here throw some light on the subject?
7 A. Would you rephrase that? I am not sure
8 exactly what you are asking.
9 Q. Well, I understand that you rely on the
10 literature for information and for learning about the
11 subject of cancer in general. Now, has the
12 literature we have been reviewing enlightened you any
13 about cancer of the tongue in young people?
14 A. It is a review of what I have already known
15 in the past from -- my great review of the literature
16 happened ten or twelve years ago. I haven't reviewed
17 it that much in the last ten years, but I have heard
18 these things stated before, and unfortunately I have
19 forgotten probably more than I have ever known, but
20 this is informative. If you have not read it before
21 and not heard it before, and it is enlightening to
22 read it again, yes, sir.
23 Q. All right, sir. Well, let's go on then.
24 Let me refer you to a volume that is Volume 55, No.
25 2, of a publication known as Cancer -- and I think

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1 you are familiar with that publication -- and refer
2 you to page 441. That paper is entitled "Oral Cavity
3 and Oropharyngeal Cancer in a Younger Population. It
4 is authored by Yung H. Son, M.D., and Daniel S. Kapp,
5 M.D. and P.H.D., and it appears, as we have already
6 said, in the publication Cancer.
7 This is a review of patients seen or treated
8 at the Department of Therapeutic Radiology at Yale-
9 New Haven Medical Center between 1958 and 1980; is
10 that correct?
11 A. Yes, that is correct.
12 Q. And, of course, I am sure you are familiar
13 with the Yale-New Haven Medical Center.
14 A. Yes, sir.
15 Q. That's a reputable, respected hospital?
16 A. Yes, sir.
17 Q. In the first paragraph -- well, let's read
18 it.
19 "The instance of head and neck cancers
20 parallels with the longevity -- "
21 Doctor, mine is blotted. Could you read
22 that for the first two lines?
23 A. "The incidence of head and neck cancers
24 parallels with the longevity, multiplicity and
25 intensity of carcinogenic exposure."

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1 Q. Thank you. "Therefore, the peak instance
2 tends to arise past the fifth decade of life.
3 Nevertheless, head and neck cancers are not
4 infrequently encountered in adolescent,
5 preadolescents and rarely even in infants. It is
6 suggestive that an inborn error, a genetic factor, or
7 immunodeficiency may play a prevalent role in cancers
8 in the younger age group."
9 Is that correct?
10 A. That's what it reads, yes, sir.
11 Q. Now, we talked about immunosuppression, but
12 isn't it possible to have immunodeficiency without
13 any outside depression of the immune system?
14 A. That is possible.
15 Q. It is something that might develop for some
16 reason in the person's own body?
17 A. Yes, sir.
18 Q. Now, it doesn't make any difference whether
19 the immune system has been suppressed by medication
20 or whether it just doesn't operate for some other
21 reason. You have the same problem of
22 immunodeficiency, which could be a cause of cancer.
23 A. Yes.
24 Q. The article goes on to read: "We
25 attempted --

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1 I am going on under "Materials and Method."
2 "We attempted to analyze our experience with head and
3 neck cancers in patients age 40 years or younger at
4 Yale and New Haven Medical Center, and affiliated
5 hospitals, between 1958 and 1980, a total of 1,014
6 patients with oral cavity and oropharyngeal cancers
7 were seen. Of those 1,014 patients, 27 or 2.7
8 percent, were 40 years of age or younger."
9 I guess maybe we better explain what
10 oropharyngeal is. What is oropharyngeal?
11 A. Oropharyngeal would be including the oral
12 cavity that we have been discussing, but it would
13 also -- the pharynx, the pharyngeal part of this word
14 would mean your throat, behind the tonsils, down your
15 throat to the voice box area.
16 Q. All right. The pharynx is the throat, and
17 the larynx is the voice box?
18 A. Yes, sir.
19 Q. And those are not strictly speaking part of
20 the oral cavity.
21 A. No, they are not part of the oral cavity.
22 Q. Now, let's look at the case reported in this
23 article.
24 Case No. 19. "An 18-year-old man with no
25 history of significant tobacco or ethanol abuse

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1 presented with a painful radiance of lesion that had
2 persisted in the right anterior tongue for seven
3 months. The lesion -- " excuse me -- onset at 17
4 years of age. "The lesion was a well-differentiated,
5 squamous cell carcinoma on examination of a biopsied
6 specimen. Examination revealed a 2.5 by 1.35
7 centimeter raised induration with a 2 centimeter firm
8 mobile subdigastric particular node."
9 Is that correct?
10 A. Yes, sir.
11 Q. This was a man of the same age as Sean with
12 a cancer in the same place; is that correct?
13 A. Yes, and he already had metastatic disease.
14 Q. He already had that. That was one
15 difference? His was already metastasized?
16 A. Yes.
17 Q. And Sean's didn't metastasize until after
18 you had seen it?
19 A. There was no clinical evidence that it had
20 been metastasized.
21 Q. I understand. It may have, but there was no
22 evidence that it had?
23 A. Yes, sir.
24 Q. And it concluded that paragraph by saying,
25 "He died in nine months from the beginning of

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1 treatment."

2 A. Yes, sir.

3 Q. Which is approximately the same time that

4 Sean died.

5 A. Yes, sir.

6 Q. The next page, "Results," "There was one 10-

7 year-old patient and four patients each in the second

8 and third decades. The remaining 18 were in the

9 fourth decade of life.

10 Going down to "Smoking and Drinking

11 History." "Ten patients smoked more than a pack of

12 cigarettes a day while seven smoked less than a

13 pack. Ten were either nonsmokers or were unknown --

14 or with unknown smoking history. 15 patients were

15 moderate to heavy imbibers, while 12 were either

16 nondrinkers or without specific alcohol history.

17 Under "Site" eleven patients presented with anterior

18 tongue lesions, while six showed posterior or base of

19 the tongue lesions. Six patients displayed

20 either alveolar and/or buccal lesions while four

21 patients had tonsillar and soft-palate lesions."

22 Is that correct?

23 A. That's what it reads, yes, sir.

24 Q. All right, sir. Now, perhaps at this point

25 we should find out what is meant by alveolar? What

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1 is the alveolar ridge?

2 A. You can refer to that as the gum, your gum

3 that holds your teeth.

4 Q. All right, sir. And the gums are also

5 sometimes called the gingiva?

6 A. Yes, sir.

7 Q. So you are talking about the alveolar ridge,

8 gingiva, you are talking about the gums?

9 A. Gingiva and gum is usually connotated as the

10 soft tissue, the skin, when you say alveolar ridge,

11 it encompasses also the bone.

12 Q. I see. But it is in the same area, --

13 A. Yes, sir.

14 Q. -- the area --

15 A. Yes, sir.

16 Q. All right, sir. Now, when you talk of

17 buccal, what are you talking about?

18 A. The cheek. The outside wall of the mouth,

19 the outside wall, inside the mouth, but I am talking

20 about outside.

21 Q. Right.

22 A. Not the skin outside.

23 Q. I understand. The buccal mucosa is the

24 lining on the inside of the cheek?

25 A. The lining of the mouth, in the cheek.

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1 Q. How about the inside of the lip?

2 A. That is usually referred to as labial, the

3 lip. It is the same lining that is on the buccal

4 mucosa. It is just a different location. It is a

5 different anatomic location.

6 Q. Just where it is? Not what it consists of?

7 A. That's right.

8 Q. And does the buccal start at the corner of

9 the mouth and --

10 A. Yes, sir.

11 Q. -- go up and the labial is across?

12 A. Between the corners of the mouth.

13 Q. All right, sir. Then going over to page

14 443, let's read the last paragraph.

15 "We arbitrarily chose the age 40 years as a

16 cutting line, but such an artifactual division cannot

17 escape a criticism of lacking epidemiologic

18 significance. Given such diversion of opinions and

19 survival outcome, based on an arbitrary age

20 limitation, we speculate that oral cavity and

21 oropharyngeal cancers in young adults with little or

22 no hitherto proven carcinogenic exposure history, may

23 be a dissimilar entity from the counterpart of older

24 population and they may be related to a genetic

25 disorder or immunodeficiency."

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1 Is that what it says?
2 A. Yes, sir, that's what it reads.
3 Q. Doctor, at this point I wonder if I could
4 ask you to look at a model I have to ask some
5 questions about?
6 MR. BRALY: May we approach the bench, Your
7 Honor?
8 (The following proceedings were had AT THE SIDE
9 BAR.)
10 MR. BRALY: The first we heard about our
11 model here was last week. Did you all have it listed
12 on your original exhibit list --
13 MR. JENNINGS: Yes, sir.
14 MR. BRALY: -- or did you just have some
15 artist drawings listed?
16 MR. JENNINGS: No, we had drawings and
17 model, and our model, I think, is what we --
18 THE COURT: Do you intend to offer it as an
19 exhibit?
20 MR. JENNINGS: Yes, sir.
21 THE COURT: Do you object to it?
22 MR. BRALY: No. I was unaware that a model
23 had been listed. I have seen the artist's drawings,
24 but I have not seen them all.
25 THE COURT: Go ahead.

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1 (The following proceedings were had IN OPEN
2 COURT.)
3 MR. JENNINGS: On our Exhibit list as
4 Exhibit 62, Your Honor.
5 Q. Doctor Hook, let me show you what has been
6 marked as Defendant's Exhibit 62, and ask if you
7 recognize that.
8 A. It is a model of the lower alveolar ridge
9 teeth and a person's tongue.
10 Q. Is that, as far as you can tell, a
11 reasonably accurate model?
12 A. I think so. Yes, it is.
13 Q. It is larger than --
14 A. It is enlarged.
15 Q. -- in life --
16 A. Yes, sir.
17 Q. -- but other than that it is reasonably
18 accurate. This, of course, is the tongue.
19 A. Yes.
20 Q. And that is the anterior two-thirds of the
21 tongue, is it not?
22 A. Yes.
23 Q. And --
24 THE COURT: Before we go on, Mr. Jennings,
25 any objection to Defendant's 62?

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1 MR. BRALY: No, Your Honor.

2 THE COURT: Defendant's 62 will be admitted.

3 Q. (BY MR. JENNINGS) If you treat this as sort

4 of the midline of this tongue and the part would be

5 the anterior one-third and this part would be the

6 middle one-third; is that correct?

7 A. That's correct.

8 Q. Now, can you help me name these teeth, at

9 least, those that might be involved.

10 A. That's the third molar, which people refer

11 to as the wisdom tooth.

12 Q. This is the second molar?

13 A. Yes.

14 Q. This is the first molar?

15 A. Yes.

16 Q. And what is this?

17 A. First and second premolar.

18 Q. First and second -- first and second

19 premolar?

20 A. Yes.

21 Q. You number from front to back?

22 A. Yes, this would be the first (indicating).

23 Q. This would be the first, this would be the

24 second. Do you have an incisor there?

25 A. That is called the canine tooth.

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1 Q. Canine, right?
2 A. Yes.
3 Q. Then you have?
4 A. Four incisors.
5 Q. Four incisors. Where are the bicuspids?
6 A. You are talking about these back here, the
7 cuspid and bicuspid.
8 Q. Okay. Now, as I understand it, this model
9 portrays the gum or the gingiva or the alveolar
10 whatever you want to call it, and this would be the
11 gum that is behind the lip, the lower lip; is that
12 right?
13 A. Yes.
14 Q. And this is the gum that is in the buccal
15 area?
16 A. Yes.
17 Q. All right. Now, outside of this gum is the
18 cheek or the lip, correct?
19 A. Yes.
20 Q. All right. Now, this is the first molar?
21 A. Yes, it is.
22 Q. And your contention is, as I understand it,
23 that the tobacco was in here?
24 A. The tobacco was placed in the pouch, in the
25 side and generally is pushed as far back as their

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1 anatomic pouch allows. That is different from person
2 to person, of course, but they will usually push it
3 posterior or backward as far as you can go.
4 Q. In any event, the tobacco would be in
5 contact with the gum and the cheek, the inside of the
6 cheek, the buccal mucosa?
7 A. Yes, it would.
8 Q. Is that right? It would not be in contact
9 with the tongue?
10 A. Not in direct contact.
11 Q. That's what I am talking about?
12 A. As far as the quid.
13 Q. The quid that is in the mouth would be in
14 direct contact with the gum and the lining of the
15 cheek, which is the buccal mucosa, and would not be
16 in direct contact with the tongue; is that correct?
17 A. Only if it chewed, which some people chew,
18 and of course the tobacco juice is in contact with
19 the tongue.
20 Q. The tobacco juice is in contact with the
21 entire mouth, I assume.
22 A. To a certain degree, but it is swallowed and
23 it is swallowed directly from the point where it is
24 held, so you can take -- make -- draw a line from the
25 point of where it is held and going posterior back

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1 into the pharynx, and assume that those tissues
2 between the posterior pharynx and the point of it
3 being held would be the greatest contact area.
4 Q. They would be the greatest contact area with
5 the juice.
6 A. Yes, sir.
7 Q. But not with the tobacco, itself?
8 A. Not unless it is swallowed.
9 Q. All right. Now, if I understand your
10 testimony correctly, you did not find any indication
11 of any changes whatsoever in the gum or in the buccal
12 mucosa anywhere in Sean's mouth.
13 A. That's true.
14 Q. That is correct?
15 A. He had taken excellent care of his gums an
16 teeth.
17 Q. Not only did you not find any where you say
18 the tobacco was held, but you couldn't find any
19 anywhere in his mouth?
20 A. That's correct.
21 Q. Doctor Hook, I am going to show you another
22 article in the publication "Cancer," and it is in
23 Volume 41, No. 1, Page 1, and it is a 1978
24 publication. I will open that up to you.
25 MR. BRALY: What was the citation.

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1 MR. JENNINGS: "Cancer," Volume 41, No. 1,
2 Page 1.
3 MR. BRALY: The authors?
4 MR. JENNINGS: The authors are Yong W. Lee
5 and Susan Gisser and the article contained --
6 concerned a squamous cell carcinoma of the tongue in
7 a nine year renal transplant survivor. And this
8 comes from the Department of Pathology at the Albert
9 Einstein Medical Center in Philadelphia,
10 Pennsylvania.
11 Doctor, I ask you to refer to the discussion
12 on Page -- it must be 4 -- the last sentence
13 beginning at the bottom of the page. "The
14 development of carcinoma of the tongue in such a
15 young patient, nine years after transplantation in
16 the absence of tobacco use or chronic irritation
17 suggests that the transplantation-immunosuppression
18 experience may have been contributory to the
19 development of carcinoma in this case."
20 Is that correct?
21 A. Yes, sir, yes.
22 Q. It goes on to say on the paragraph on the
23 right on page 5, "This is the first case of squamous
24 cell carcinoma of the tongue reported in a renal
25 transplant recipient. The patient was a long-term

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1 graph survivor, he developed his tumor which led to
2 rapid demise at an early age in the the absence of
3 the tobacco or chronic irritation suggesting that
4 renal transplantation and immunosuppression were
5 contributory." Is that correct, sir?
6 A. Yes.
7 Q. Doctor, I only have two more and I do not
8 have the volumes, but I can furnish you with copies
9 of these. The first one is in a publication known as
10 "Practitioner," January 1982 issue, Volume 226,
11 entitled "Carcinoma of the tongue, Report of a case
12 in a 24-year-old man" T.C. Dann, medical officer, T.
13 R. James, dental officer, from the University Health
14 Service, University of Warwick Coventry, which is in
15 England, I believe; is that correct?
16 A. That's what it reads, yes, sir.
17 Q. All right, sir. It says that "carcinoma of
18 the tongue in people under the age of 30 years is
19 rare. In a series of 34 cases, seen over a ten year
20 period at the University of Arkansas Medical Center,
21 none were under the age of 40 years. Previously
22 recorded cases in people aged 20 to 25 years are few
23 and for some bizarre reason, are clustered around the
24 beginning of the century. However, more recently, 11
25 cases of carcinoma of the tongue have been described

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1 from M. D. Anderson Hospital, Houston, Texas, of
2 which seven were in patients aged between 20 and 30
3 years. In all cases at whatever age, men greatly
4 outnumber women.
5 Our patient, a male student, age 24 years,
6 presented to one of us was with an ulcer on his
7 tongue which had been present for two or three
8 months. It had not bled, discharged or been
9 painful. On examination there was an ulcerated
10 lesion on the underside and lateral border at the
11 junction of the middle and posterior thirds of the
12 right side of the tongue."
13 Going over to the second column "a biopsy
14 was taken which showed a moderately differentiated
15 invasive squamous cell carcinoma." As with all
16 patients under the age of 30 years with carcinoma of
17 the tongue that have been reported, there were no
18 obvious precipitated causes. Our patient did not
19 smoke, drank little alcohol, did not wear any dental
20 appliances, or have any local dental irregularities.
21 He had neither leukoplakia nor syphilis. Have I read
22 it correctly?
23 A. You have read it correctly.
24 Q. If I may turn now to the other one I have
25 left for you. This is in a publication entitled

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1 "Indian pediatrics. I don't know whether you have
2 ever heard of that or not?
3 A. No, I have not.
4 Q. You may well not know whether or not it is
5 authoritative.
6 A. I have no opinion on --
7 Q. You have no idea. Well, we will save a
8 little time then, Doctor.
9 Doctor, are you under the impression that
10 use of tobacco by children is something new?
11 A. Not new, but the incidence of it, the
12 numbers of people using it I would say in the last
13 ten years is a new phenomena.
14 Q. You referred to the Winn report in the New
15 England Journal of Medicine. Do you have a copy of
16 that with you?
17 A. Not with me, sir.
18 Q. I believe Mr. Braly has got a copy right in
19 front of you.
20 MR. BRALY: Would you like to borrow it?
21 THE WITNESS: Yes, sir.
22 Q. (BY MR. JENNINGS) On page 746, where there
23 is a description of the people being studied, that is
24 the second page of the article, it says that "snuff
25 was used by 107 cases (46 percent) and 124 controls.

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1 (30 percent), with about one-third of the subjects
2 starting the habit at age 10 or younger." Is that
3 what it says?
4 A. Yes, sir.
5 Q. Do you know that that study was studying
6 people from the years 1975 to 1978?
7 A. Yes, in Southeastern United States.
8 Q. Yes, sir. And did you know that 73 percent
9 of those people were over age 60?
10 A. I believe that's stated in the article.
11 Q. And 90 percent of them were over the age of
12 50?
13 A. I would have to look and verify that, but
14 I'm sure it is.
15 Q. So if they were -- if that third consisted
16 of people, as it probably did, over age 50 and it
17 started when they were ten, they had been using it
18 for 40 years, hadn't they?
19 A. Yes. That's a common history.
20 Q. If you subtract 40 from 75, then you are
21 back to 1935.
22 A. Yes.
23 Q. And do you have any doubt in your mind that
24 young people back in the 1930's were experimenting
25 with tobacco?

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1 A. No, there's no doubt in my mind. This is a
2 very heavily weighted series because of its location
3 in the United States, also.
4 Q. You think that children in the southeast
5 part of the country, are more attempted to go out
6 behind the barn and smoke cigarettes than they are
7 any place else?
8 A. Are we talking about smoking now? This
9 article is talking about snuff dipping.
10 Q. I understand. We are talking about tobacco
11 use.
12 A. Well, smoking has been going on for a long
13 time, sir, but I was referring to the snuff usages a
14 little bit ago.
15 Q. Well, according to this article, the snuff
16 use had been going on for a long time, hadn't it, in
17 that part of the country, at least?
18 A. Yes.
19 Q. Incidentally, Doctor, have you ever used
20 tobacco?
21 A. No, sir. Well, -- yes, I did as a
22 youngster, I have tried it before, yes, sir. My wife
23 bought me a pipe at Christmas, thought it was
24 distinguished, I haven't been able to keep that up,
25 several years ago.

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1 Q. How old were you when you first experimented
2 with tobacco?
3 A. Young enough it made me sick; I never wanted
4 it again. We are referring to cigarettes here.
5 Q. Doctor, you have referred to the place that
6 Sean indicated that he placed his snuff. Do you have
7 anything in writing in any of your records setting
8 out exactly where he placed the snuff?
9 A. I really can't recall that. I think it may
10 -- I may refer to the right side, but I would have to
11 look at my records very closely to see if I wrote it
12 down. That was oral communication when I asked him
13 the very first visit where he held his snuff.
14 Q. That is the only time you asked him?
15 A. I'm sure that was the only time I asked him,
16 yes.
17 Q. So you are testifying as to your
18 recollection of an oral communication back in 1983?
19 A. Yes.
20 Q. Do you recall the five cases from India that
21 were reported in one of the articles?
22 A. Yes, I do.
23 Q. All of them had cancer of the right lateral
24 border of the tongue?
25 A. Yes.

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1 Q. One of them had chewed tobacco for a year?
2 A. Yes, sir.
3 Q. The other were nonusers?
4 A. That's what the article said.
5 Q. What, in your opinion, caused the cancer in
6 those five children?
7 A. Well, I didn't -- not reading the entire
8 article, but just the excerpts that we went through
9 yesterday, it alluded to dietary factors was the
10 conclusion I think that they were trying to make in
11 that article. It did not say more than one of them
12 used tobacco, but I really don't recall if they --
13 since we didn't read the whole article, whether it
14 went in or not to about what other elements they may
15 have been chewing. India is renoun for people
16 chewing on other products, they keep it in their
17 mouth, that is very highly associated with cancer of
18 the mouth.
19 Q. You think that in India they are using
20 different products that might be causing problems?
21 A. Well, --
22 Q. Other than tobacco?
23 A. -- there are articles telling about that,
24 yes, sir.
25 Q. Is that, in your opinion, fairly prevalent

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1 in India?

2 A. I think so.

3 Q. Now, is the dietary situation in India

4 considerably different from what it is in the United

5 States?

6 A. That's my impression.

7 Q. And that you think would be a factor of the

8 Indian incidence of --

9 A. Yes, I think that could be a factor.

10 Q. Probably some other factors that we don't

11 even know about that differ in India from the United

12 States.

13 A. I would think so.

14 Q. You did not find any leukoplakia, and as I

15 understand your testimony, you were not aware that

16 Sean had been seen by Doctor Balz.

17 A. That's correct.

18 Q. In fact, you did not know at the time of

19 that your deposition was taken this year, that he had

20 been seen by Doctor Balz?

21 A. No, I think -- if I recall, Mr. Jennings,

22 you asked me if he had been seen by a physician for

23 the disease of the tongue. I had read the deposition

24 or I had known that he had been seen in a clinic in

25 January, I believe, of 1983 for a complaint of an

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1 earache or an ear infection and the physician treated
2 him for the ear infectionbut on examination to see if
3 he might have a sore throat as a cause of the fever
4 and the pain, I believe the physician described
5 leukoplakia of the tongue, but I believe your
6 question was had he -- did I know if he had been seen
7 by another physician for the tongue problem, and my
8 only knowledge was he saw Doctor Goodrich a couple of
9 days before I saw him and she referred him to me.
10 Q. So you would not have considered his visit
11 to Doctor Balz as having anything to do with his
12 tongue problem?
13 A. It was my understanding from the deposition
14 and other verbal information that he went to that
15 doctor for some other reason, yes.
16 Q. Well, let's look just a second. This has to
17 do with the referral by Doctor Goodrich and the
18 question, this is page 11 of your deposition.
19 "What was your understanding as to when
20 Doctor Goodrich first saw Sean?
21 Answer: Just a matter of days before he
22 came to me. I don't know how many, but it was a very
23 short period of time.
24 Question: I think the records probably show
25 that it was the day before, but, in any event, did

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1 you have any information that he had been seen by
2 anybody else because of the problem with his tongue?
3 Answer: No, just the only records I had are
4 what he told me, that he had been employed for an
5 army induction physical in February. Question: Did
6 you, subsequently at any time, learn that he had been
7 seen by anybody else besides you and the army
8 physical and Doctor Goodrich.
9 Answer, no.
10 Question: As of this date, you are not
11 aware of any?
12 Answer: As of this date, I read some
13 depositions given by some people that he had been
14 examined by other doctors, I don't know that it was
15 really for this tongue problem, but for other medical
16 problems, upper respiratory problems and things like
17 that."
18 Was that your testimony?
19 A. Yes.
20 Q. Then do I understand correctly that you had
21 no information that Doctor Balz had observed a
22 leukoplakia in January of 1983.
23 A. I had no information.
24 Q. All right, sir.
25 A. He only gave a history of the army induction

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1 physical to me.

2 Q. So, in any event, the fact that he had a

3 leukoplakia, if he did in January of 1983, had

4 nothing to do with your opinion as to what caused his

5 tongue cancer?

6 A. It did not. If I had known that, it would

7 have just reaffirmed it and made it stronger.

8 Q. But you didn't know it?

9 A. I did not know it.

10 Q. Doctor, you referred to an article by a

11 Doctor Bloodgood.

12 A. Yes.

13 Q. Do you remember that?

14 A. Yes, sir.

15 Q. Have you read that article?

16 A. Yes, I have.

17 Q. From the Journal of the American Medical

18 Association?

19 A. Yes.

20 Q. Dated October 29, 1921?

21 A. 1921 is the year I remember, yes.

22 Q. Yes, sir. And it has a subheading on the

23 very first page that says "Danger of the Leg. And it

24 reads "Delay. In proper treatment after the onset of

25 the malignant lesion reduces the chances of a cure in

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1 operable cases from 62 to 12 percent, and increases
2 the chance of postoperative death from 5 to 30
3 percent."
4 Did you read that part of it?
5 A. Yes, I did.
6 Q. Would you agree with that?
7 A. No, sir.
8 Q. You don't agree with that?
9 A. No, sir.
10 Q. You don't think delay has anything to do
11 with it?
12 A. That article was written in 1921 and that
13 was written in that article. Yesterday some of the
14 articles that we were reading said the opposite.
15 They were dated in 1950 or '60 or '70.
16 Q. Doctor Hook --
17 MR. JENNINGS: If the Court please, I am
18 going to have about another ten or fifteen minute, I
19 don't know if the Court wants to take a recess or
20 not.
21 THE COURT: This would be an appropriate
22 time. Ladies and gentlemen, we will go ahead and
23 take our mid-morning recess for 20 minutes.
24 Remembering my usual admonitions to you, I won't
25 repeat them, but be careful to observe my admonitions

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1 and you will be excused for 20 minutes. And everyone
2 remain seated while the jury exits for 20 minutes.
3 The court will be in recess.
4 (A brief recess was here had.)
5 THE COURT: You may continue, Mr. Jennings.
6 MR. JENNINGS: Thank you, Your Honor.
7 Q. (BY MR. JENNINGS) Doctor Hook, in
8 connection with your investigation of Sean's
9 background, I assume that was done by questioning him
10 and whoever was with him when they came to see you.
11 Did you investigate the family history?
12 A. No, sir.
13 Q. And do I understand correctly that you
14 really didn't have any information about his physical
15 condition or any problems he had before 1983, or did
16 you?
17 A. Brief history. The routine questions asked
18 were if you had any major illnesses, been
19 hospitalized for any severe problem, what surgeries
20 have you had, medical allergies and the usual things,
21 chickenpox, measles, this or that, but there is no
22 pertinent important factor given in the history.
23 Q. You didn't go into it in depth?
24 A. No, sir.
25 Q. Now, Doctor, you have, as I understand it,

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1 relied somewhat on the Winn Study. Do you consider
2 that an important study?
3 A. I consider that a very valid study, yes.
4 Q. Does it have anything to do with your
5 opinion as to causation?
6 A. At the time that I made my decision, no.
7 Q. At the time you made your decision, you
8 hadn't even seen the Winn report.
9 A. That's correct.
10 Q. Do you feel that the Winn report reinforces
11 your opinion?
12 A. Yes, reinforces me on the cause and effect
13 of snuff usage in oral lesions, yes.
14 Q. As a general thing; is that right?
15 A. Yes.
16 Q. Does the --
17 A. Well, I think it is very specific about the
18 cancer of the oral cavity and the use of snuff.
19 Q. Can you tell me how many of the Winn
20 cases -- I am talking about the cases that Doctor
21 Winn has studied -- were under 30 years of age?
22 A. I don't know.
23 Q. Do you have any idea?
24 A. There may have been none, but I really don't
25 know.

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1 Q. Do you know how many cases of tongue cancer
2 were involved in the Winn Study?
3 A. No, I don't.
4 Q. Then you don't know whether there were any,
5 I take it.
6 A. I think there were some of the tongue. In
7 reading that I think there were floor of the mouth,
8 buccal mucosa, gingiva and tongue cancers. I don't
9 know how many of each one.
10 Q. Have you seen any data in connection with
11 the Winn report? I mean by that anything other than
12 the published report itself.
13 A. No, sir.
14 Q. Do you know whether that data would show an
15 increased risk of tongue cancer from the use of
16 tobacco?
17 A. I haven't seen any data besides reading the
18 article, sir.
19 Q. There is nothing in this article to indicate
20 that there is any increased risk of tongue cancer, is
21 there?
22 A. The article says there's increased risk of
23 oral cavity cancer. The tongue is in the oral
24 cavity.
25 Q. All right. I agree with that. But if you

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had all of the oral cavity cancer in the buccal mucosa or the gums or somewhere and didn't have any in the tongue, then it wouldn't be very revealing about tongue cancer, would it?

A. I'm not sure that would be relevant in that regard. I am concerned about oral carcinoma, and the tongue is one of the organs in that. Whether it causes three-fourths of the lesions in the oral cavity to be away from the tongue and one-fourth of the tongue is not important to me.

Q. Well, it would be important to know whether or not snuff causes cancer of the tongue by studying whether or not there was any increased risk of cancer of the tongue, wouldn't it?

A. Well, that would be important.

Q. All right.

A. And I assume from that article that it was.

Q. You think it was?

A. Yes.

Q. But you don't know what she came up with?

A. I know what the article says about the oral cavity cancer results.

Q. Cancer incidence.

Q. Incidentally, did Doctor Winn's study note any differences between white population and black

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1 population?

2 A. It made a reference to that, and I don't

3 know exactly what that was right now. But it was --

4 I think the study was done on white, predominantly in

5 white population.

6 Q. Do you know whether or not there were any

7 black cases or black controls in the study?

8 A. Not without reviewing the article again I do

9 not.

10 Q. Do you know of any epidemiological studies

11 that report an increased risk of tongue cancer from

12 the use of tobacco?

13 A. Limiting it to tongue?

14 Q. (Nodding yes).

15 A. I can't tell you right now any study that is

16 limiting to the tongue.

17 Q. All right, sir.

18 A. Oral cavity, yes.

19 Q. Now, let me ask you this. Are you aware of

20 any other literature other than what we have

21 discussed here yesterday and today with regard to

22 tongue cancer in young people?

23 A. A specific article? No, sir. I have read

24 several, but I could not give you journal citings or

25 the authors names and all.

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1 Q. You know Doctor Westbrook?

2 A. I know of him. I have talked to him by

3 phone.

4 Q. How many times?

5 A. Once.

6 Q. Did you talk to him by phone after you

7 learned that Mr. And Mrs. Braly had approached him

8 about testifying in this lawsuit?

9 A. I think so. He called me, and I think that

10 was after he had been in conversation with Mr. and

11 Mrs. Braly.

12 Q. And what did you all talk about?

13 A. He told me that he had read -- I believe he

14 had read the medical records, and it might even have

15 been after the deposition, but I'm not sure about

16 that, but he read the records of Sean Marsee. He had

17 read the hospital records, and we talked about the

18 treatment and the care and our feelings about cause

19 and effect out of the oral cavity, head and neck

20 cancers.

21 Q. The principal thing you talked about was the

22 treatment, wasn't it?

23 A. We talked about the treatment.

24 Q. Was that the principal subject of the

25 conversation?

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1 A. The principal -- I guess it would probably
2 be the principal subject, yes.
3 Q. You were trying to find out whether Doctor
4 Westbrook had any criticism of your handling of the
5 case; is that not correct?
6 A. I was not trying to find out anything. He
7 called me.
8 Q. Do you know why he called you?
9 A. Well, I think it was subsequent to recent
10 conversation with Mr. and Mrs. Braly.
11 Q. Had you requested that they ask him to call
12 you?
13 A. No, sir.
14 Q. Doctor Hook, it is true that the vast
15 majority of people who use snuff don't get cancer?
16 A. That's true, thank goodness.
17 Q. I agree. Doctor Hook, do the nurses in
18 Valley View Hospital wear name tags?
19 A. Yes.
20 Q. Do you recall your deposition testimony?
21 You were asked in connection with Sean's visit of
22 April 5th:
23 "Question: I don't believe he had ever
24 been a patient of yours before that time."
25 Your answer was: "That is correct.

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1 "Question: Did you know his mother?

2 "Answer: Just acquaintances from seeing

3 her on the floor at the hospital. She was working at

4 the hospital. They had not lived in Ada very long,

5 so really it was just a matter of seeing her, knowing

6 that she was a nurse and seeing her name tag on her

7 uniform."

8 Is that your testimony?

9 A. Yes.

10 MR. JENNINGS: I believe that's all.

11 THE COURT: Redirect.

12 REDIRECT EXAMINATION

13 BY MR. BRALY:

14 Q. Doctor Hook, the next to the last question

15 that Mr. Jennings asked you was: "Isn't it true that

16 the vast majority of the people who use snuff don't

17 get oral cancer?"

18 Do you recall that question?

19 A. Yes, sir.

20 Q. Isn't it also true that for instance the

21 vast majority of people that were exposed to polio

22 virus did not get polio?

23 A. That's true.

24 Q. Isn't it also true that the vast majority of

25 the people who are exposed to tuberculosis do not get

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1 tuberculosis?

2 A. That's correct.

3 Q. Isn't it true that we could go down a long

4 list of common human diseases and the vast majority

5 of people that are exposed to those etiologic agents

6 don't get those?

7 A. That's correct.

8 Q. Isn't that the rule rather than the

9 exception that they don't get those diseases?

10 A. Yes.

11 MR. JENNINGS: If the Court please, I know

12 the temptation is to lead on redirect.

13 THE COURT: Sustained. Don't lead your

14 witness, counsel.

15 Q. (BY MR. BRALY) Doctor, does the fact that

16 the vast majority of the people that are exposed to

17 polio virus do not get polio indicate in any way that

18 it was not the polio virus that in fact caused those

19 people that were so unfortunate as to get that

20 disease to actually get that disease?

21 A. That's correct.

22 Q. And, Doctor, when people got polio, where

23 did they go to get treatment? Who treated them?

24 A. They went to a physician.

25 Q. And did all those physicians get polio?

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1 A. No.

2 Q. Is that unusual in the medical world?

3 A. Are you talking about physicians not

4 contracting the diseases that they are treating?

5 Q. Not getting things that they are exposed to

6 from their patients.

7 A. That is not unusual. Physicians are exposed

8 to a multitude of things.

9 Q. And the vast majority of them don't come

10 down with those diseases, do they?

11 A. The vast majority do not.

12 Q. Why do you suppose Mr. Jennings asked you

13 that next to the last question?

14 A. I don't know why Mr. Jennings would ask me

15 the questions. I think he's just making the point

16 that there are lots of snuff dippers and people using

17 tobacco, not all of them develop cancer, not all

18 people develop the lung cancer that smoke cigarettes.

19 Q. Doctor, in your clinical experience have you

20 ever even seen a head and neck cancer case that is

21 not a user of tobacco in one form or another?

22 A. I have not.

23 Q. Doctor, I hand you an article from the

24 literature. I believe that is the journal article

25 from the journal Cancer to which you have already in

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1 response to some of Mr. Jennings' questions stated
2 that that was an authoritative journal. Do you still
3 consider it to be?
4 A. Yes, sir.
5 Q. Would you read the title of that journal
6 article.
7 A. "Squamous Cell Carcinoma of the Upper
8 Aerodigestive Tract in Nonusers of Tobacco."
9 Q. What year was that written?
10 A. It's in Cancer, 55th volume, 1985.
11 Q. And, Doctor, if you would take a peek around
12 and see if that chart that I have put up is a copy of
13 the abstract at the beginning of the article.
14 A. Yes, it is.
15 Q. Would you read the first sentence, please,
16 of the extraction.
17 A. "945 patients with squamous cell carcinoma
18 of the upper aerodigestive tract were treated at the
19 University of Louisville-affiliated hospitals from
20 1970 through 1979."
21 Q. Would you now read the next sentence.
22 A. "Retrospective analysis disclosed that 33
23 patients, which represents 3.4 percent, never used
24 tobacco."
25 Q. Would you read the next sentence, please.

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1 A. "This group offers interesting contrasts to
2 the more prevalent tobacco-related epidermoid
3 cancers."
4 Q. And, Doctor, does this group of patients
5 deal with older patients who were not tobacco users
6 who got cancer of the oral cavity?
7 A. Yes. In the next sentence it says the mean
8 age of the patients is 68 years.
9 Q. Now, Mr. Jennings calls your attention to a
10 number of journal articles that dealt with young
11 people who got cancer of the oral cavity; is that
12 correct?
13 A. Yes.
14 Q. By and large they were nontobacco users?
15 A. By the articles as they are written, yes,
16 sir.
17 Q. Although did you notice in any but one of
18 the articles from India whether they ever
19 specifically asked about the use of snuff or chewing
20 tobacco?
21 A. I think we looked at over a dozen articles,
22 maybe more, and I could not see that it specifically
23 asked anywhere about the usage of chewing tobacco or
24 snuff. It referred to the use of tobacco and many
25 times specifically was saying they did not smoke.

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1 The one article from India did have one year usage of
2 chewing tobacco in one patient.
3 Q. And, Doctor, according to this article, we
4 have got a group of nontobacco users in older people
5 that get head and neck cancer.
6 A. Yes, sir.
7 Q. And according to the articles that Mr.
8 Jennings provided you, we have another group of young
9 people that apparently are not tobacco users that get
10 head and neck cancer.
11 A. Yes, sir.
12 Q. Have those young groups of people
13 necessarily been exposed to tobacco?
14 A. No.
15 Q. According to this article, of those people,
16 those 940, -- if you would do the arithmetic for me.
17 A. 945 patients, 33 had not used tobacco. 3.4
18 percent had not used it, so you have 96.6 percent who
19 were tobacco users.
20 Q. Is that experience, that clinical experience
21 that is represented in this article from the
22 authoritative journal that Mr. Jennings called to
23 your attention, is that experience consistent with
24 your clinical experience about tobacco and head and
25 neck cancer?

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1 A. Well, my clinical experience has been 100
2 percent of the patients that I have treated use
3 tobacco, and I think the literature, most articles,
4 you are usually in the range of 90 to 95 percent.
5 Q. Doctor, also in another issue of Cancer in
6 1985, Mr. Jennings called your attention to an
7 article entitled "Oral cavity and Oropharyngeal
8 Cancer in a Younger Population."
9 I don't have an extra copy of it, so I am
10 going to have to hand you mine. I call your
11 attention to the second page, the paragraph that has
12 been marked. The paragraph deals with the survival
13 of tongue cancer patients, doesn't it?
14 A. Yes, it does.
15 Q. Would you read that paragraph to the jury,
16 please.
17 MR. JENNINGS: Excuse me. Could we further
18 identify what it is, please.
19 MR. BRALY: Read the name of the article.
20 THE WITNESS: "Oral Cavity and Oropharyngeal
21 Cancer in a Younger Population" by Yung H. Son in
22 Cancer, 55, 1985.
23 Q. (BY MR. BRALY) Now, sir, would you read the
24 paragraph indicated, please, to the jury.
25 A. Yes. "In general the patients 40 years or

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1 younger fared less well when compared stage for stage
2 with the older age group patients treated at Yale.
3 Only one of nine patients with T 1, 2 tongue and
4 floor of the mouth lesions survived. Five died of
5 local failure before 24 months, while 2 died before
6 36 and 48 months, respectively. One patient died of
7 a second primary in the esophagus before 48 months.
8 Only one of the three with T 1, 2 base of the tongue
9 lesions is alive. Two died of disease before 18
10 months" had passed.
11 Q. Doctor, in your experience is that kind of
12 prognosis reasonably typical for tongue cancer
13 patients?
14 A. Yes. Generally the younger the patient, the
15 worse the prognosis is.
16 Q. And those included lesions even smaller than
17 the one that Sean Marsee had when he came to your
18 office?
19 A. Yes. These included T 1 lesions, which
20 would be smaller than two centimeters in size.
21 Q. And only one of nine survived?
22 A. Only one, yes.
23 Q. Doctor Hook, let's hit the nail on the head
24 a little bit. Mr. Jennings started out yesterday and
25 he cross-examined you about the punch biopsies. Do

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1 you recall that?

2 A. Yes, sir.

3 Q. And then he thereafter cross-examined you

4 about the fact that 41 days elapsed between the time

5 he first saw Sean Marsee and the time that you did

6 this surgery.

7 A. That's correct.

8 Q. Did you get the impression that he was

9 trying to try you instead of defending the tobacco

10 company?

11 MR. JENNINGS: If the Court please, I don't

12 believe his opinion as to what I am trying to do is

13 admissible.

14 THE COURT: Sustained.

15 Q. (BY MR. BRALY) Doctor Hook, when you did

16 visit -- Let me ask you this question.

17 Do you recall him mentioning questions about

18 the confusion over his mother or his older sister?

19 A. Yes.

20 Q. Do you know what shift Mrs. Marsee works at

21 the hospital? Does she work the day shift?

22 A. Now, I see her on the evening shift, which

23 we call the three to eleven. I am not sure what she

24 worked in 1983, because I can't definitely say I had

25 ever seen her before, but I assumed that I probably

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1 would have seen her, run across her in the hospital
2 sometime, although I am not even sure how long she
3 had worked at the hospital at that time.
4 Sean was not a resident of Ada. He lived in
5 Talihina. I had never seen him before, and I didn't
6 know any of the family.
7 Q. Mrs. Marsee has a daughter that also works
8 at the hospital?
9 A. Yes, she does.
10 Q. Wears a nurse's uniform and name tag?
11 A. Yes, sir.
12 Q. Doctor Hook, when this 18-year-old boy had a
13 lesion on his tongue came into your office, what were
14 you concentrating on?
15 A. A young man I had never seen before with a
16 lesion that I thought was cancer and how to get rid
17 of that cancer for him without losing him, for one
18 thing, being very careful not to say anything to him
19 to frighten him, to make him bolt and run, because
20 that happens with older people than 18 sometimes,
21 too.
22 And I dealt with him, worked with
23 conversation with him to try to establish a rapport
24 so he would have confidence and faith in me, that he
25 would do what I advised him.

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1 Q. Doctor, a couple weeks later he came back in
2 your office with somebody that you know was his
3 mother; is that correct?
4 A. Yes. I'm positive that was his mother.
5 Q. Did you talk to him and make recommendations
6 for surgery?
7 A. Yes, I did.
8 Q. What recommendation did you make?
9 A. That he had a partial excision of his
10 tongue.
11 Q. Did you recommend that he wait a month or,
12 did he go ahead and do it?
13 A. I recommended that it be done then.
14 Q. Did he accept that advice, or did he refuse
15 that advice?
16 A. He did not accept that advice for personal
17 reasons.
18 Q. Was his mother there at the time?
19 A. At that visit, yes, she was.
20 Q. How old was Sean Marsee?
21 A. 18.
22 Q. Could you have done surgery right then if
23 you had wanted to without his consent?
24 A. No, sir.
25 THE COURT: Ladies and gentlemen, I might

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1 mention to you at this point that the treatment
2 performed by Doctor Hook on Sean Marsee is relevant
3 in this trial only insofar as it affects his
4 credibility as a witness.
5 Go ahead.
6 MR. BRALY: Thank you, Your Honor. I was
7 going to --
8 Q. (BY MR. BRALY) Doctor Hook, let me hand you
9 two further articles. These are articles that Mr.
10 Jennings identified yesterday. Do you see the
11 article entitled "Malignant Tumors of the Head and
12 Neck in a Young population"?
13 A. Yes, sir.
14 Q. The authors are Clark, Rosen and Laperriere.
15 I ask you to turn to page 461. Look on the
16 right-hand side, the first grammatical paragraph, the
17 first sentence that begins "No other etiologic
18 agents."
19 Do you see that paragraph?
20 A. Yes, sir.
21 Q. Would you read that sentence to the jury,
22 sir.
23 A. "No other etiologic agents could be
24 implicated in this series due to incomplete
25 documentation."

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1 Q. And that incomplete documentation, did that
2 include a lack of tobacco histories?
3 A. Yes, sir.
4 MR. JENNINGS: Excuse me. What was the
5 question?
6 THE COURT: What was your question, Mr.
7 Jennings?
8 MR. BRALY: I said, "Did that include a
9 tobacco history?"
10 THE COURT: I'm sorry. Mr. Jennings had a
11 question. I didn't hear what he said.
12 MR. JENNINGS: I misunderstood the question.
13 I thought he said it did include a reference to the
14 tobacco, but he didn't.
15 Q. (BY MR. BRALY) Doctor Hook, do you recall
16 also Mr. Jennings cross-examined you at some length
17 about the subject of whether you consulted with
18 another physician or not?
19 A. Yes, sir.
20 Q. What does it mean to be a board-certified
21 head and neck surgeon?
22 A. It means you have completed a certified
23 residency program in that area of medicine that would
24 qualify you to perform and to diagnose, make
25 judgments and do that type surgery. You have to

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1 complete the residency program, in other words.
2 Certification then is a test that you elect
3 to take. You are not required to take it all, but
4 after you have finished your residency program and
5 are in private practice, you have the ability to
6 apply for and to take a written and verbal test,
7 which takes two days in my particular specialty, and
8 then perform a satisfactory passing grade on that to
9 become certified in the Board of Otolaryngology. It
10 means you admit the standards accepted in the United
11 States by your peers to perform them.
12 Q. And you have completed that training?
13 A. I took the examination in the fall of 1975.
14 Q. And passed it?
15 A. Yes, sir.
16 Q. Doctor, what is this operation that you did
17 on Sean Marsee's tongue? What do you call that
18 medically?
19 A. Sean underwent a partial glossectomy,
20 meaning tongue excision.
21 Q. An appendectomy meaning you take out the
22 appendix, and a glossectomy meaning you are taking
23 out the tongue or a partial glossectomy meaning part
24 of the tongue?
25 A. Yes, sir.

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1 Q. Have you got an article in front of you from
2 the Journal of Pediatrics?
3 A. Yes. "Visceral Squamous Cancer in
4 Children."
5 Q. That was the journal article that Mr.
6 Jennings read to you from yesterday at some length?
7 A. Yes.
8 Q. I ask you to turn to the summary and the
9 conclusions. Do you see those?
10 A. Yes, sir.
11 Q. There are four paragraphs in the summary and
12 the conclusions.
13 A. Yes.
14 Q. Would you read the third paragraph, please.
15 A. "There is no evidence that these squamous
16 cancers do not respond to the same methods of
17 treatment and to the same degree as do the squamous
18 cancers in adults.
19 Q. It says the same methods of treatment?
20 A. Yes, sir.
21 Q. If Sean Marsee had been 58 years old, what
22 operation would you have performed on him?
23 A. The same thing that I did on him.
24 Q. A partial glossectomy of the tongue?
25 A. Yes.

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1 Q. If Sean Marsee had been 58 years old, what
2 operation would you have performed on him?
3 A. A partial glossectomy.
4 Q. If Sean Marsee instead of being 18 years old
5 had just been 8 eight years old, what operation would
6 you have performed on him?
7 A. Partial glossectomy.
8 Q. Doctor Hook, do you see the article I just
9 handed you?
10 A. Yes, sir.
11 Q. Would you read the title of that article,
12 please?
13 A. "Carcinoma of the Tongue in Early Adult
14 Life."
15 Q. The British Journal of Cancer. That was an
16 article that Mr. Jennings read to you at some length
17 from yesterday, wasn't it?
18 A. Yes, I believe we did go over this one.
19 Q. And yesterday Mr. Jennings, while he was
20 reading to you, you asked to interrupt him, that you
21 had a question, didn't you?
22 A. Yes, I did.
23 Q. There was something in that article that you
24 wanted to call to the Court and jury's attention.
25 A. Yes, sir.

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1 Q. Let me call your attention to the bottom of
2 the first page.
3 A. Yes, sir.
4 Q. Would you read the title of that -- is that
5 the paragraph you had in mind?
6 A. Yes. We did not go over this yesterday.
7 Q. Is that the one that you tried to interrupt
8 him for?
9 A. Yes, sir.
10 Q. Let me now give you an opportunity to read
11 that paragraph to the jury. Would you do that,
12 please?
13 A. Yes, sir. The topic is "Delay Between Onset
14 of Symptoms and Diagnosis."
15 "This varied between six weeks and ten months
16 in this particular study with an average of
17 five-and-a-half months. Delay was due in a few cases
18 to failure to attend for advice, but the majority had
19 sought either a medical or dental opinion at an early
20 stage. Some had been treated with topical
21 preparations and others by dental extractions before
22 the diagnosis. The length of delay did not appear to
23 have any direct relation to the patient's subsequent
24 prognosis. In those that survived for five years or
25 more, the delay averaged seven months, and in those

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1 that succumbed and died, the delay averaged five
2 months."
3 Q. Based on that, was the delay in Sean
4 Marsee's treatment a material factor in the outcome
5 of his cancer?
6 A. I do not believe so. I think it had to do
7 with the aggressive particular cell type cancer that
8 he had and in being a young person.
9 Q. Now, Doctor, one other thing that we
10 mentioned that you were examined about, but that was
11 this business of this punch biopsy.
12 A. Yes, sir.
13 Q. Do you recall Mr. Jennings standing here as
14 an attorney and questioning your judgment on that
15 matter?
16 A. He asked me questions about a punch biopsy,
17 yes, sir.
18 Q. In your opinion is there a good reason not
19 to do a punch biopsy on a lesion that you believe is
20 malignant?
21 A. Yes, sir, definitely a good reason. If I
22 had thought that the lesion might be benign and you
23 were wanting to give the patient the good news that
24 you have a benign lesion, that is an excellent time
25 to do a punch biopsy.

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1 But if you feel like you are dealing with a
2 malignant lesion, then a punch biopsy or incisional
3 biopsy can definitely create metastasis problems. It
4 can put tumor cells into the bloodstream, and so many
5 feel like this is a definite contraindication, that
6 you would like not to then violate and enter that
7 lesion, that cancer, until you are ready to remove it
8 all.
9 Q. Doctor, let's make sure that we all
10 understand. By punch biopsy, what kind of a tool or
11 instrument are you going to use on this kind?
12 A. A punch biopsy is referring to the use of
13 cylindrical round instrument that you essentially
14 would screw into the lesion, just like using a screw-
15 driver, and when you go a certain depth, then there
16 is a way of inserting something that removes a core,
17 that would be a good term, you remove the core of the
18 tissue with this instrument.
19 Q. That would be something like a big-headed
20 leather punch that you might push through a piece of
21 leather with?
22 A. Yes, it would be similar.
23 Q. Pull it out of a piece of leather, you got a
24 little piece of brown leather inside of it?
25 A. Yes, sir.

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1 Q. And that's the sort of thing that you would
2 do to the tongue?
3 A. Yes. That's really -- the punch biopsy is
4 used more on -- skin dermatologists use that a great
5 deal for a lesion of the tongue or oral cavity.
6 Nearly all the lesions that I deal with, you
7 more likely do an incision biopsy, period, because
8 they frequently do not get enough specimen by using
9 this punch biopsy technique. So an incisional biopsy
10 means you take a sliver, I guess would be a
11 nonmedical term, but it -- you would take a small
12 portion shaped something like a football, and you
13 would get enough specimen that the pathologist is not
14 going to call you back and say you did not give me an
15 adequate specimen for me to make a diagnosis with.
16 You give him a fairly good piece of tissue,
17 usually requires one or two stitches being placed in
18 on either side of that, sewing that spot back up to
19 stop it from bleeding.
20 Q. Are you going to sever blood vessels and
21 arteries inside the tissue when you do that?
22 A. Certainly.
23 Q. Are you going to open those blood vessels
24 and arteries and lymph ducts up to receiving
25 malignant cells?

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A. You certainly could be.

Q. Is that the reason why it is contraindicated?

A. Yes, sir.

Q. Doctor Hook, I have just three more questions. Do you manufacture snuff?

A. No, sir.

Q. Have you ever gotten on TV and advertised to young people and old people alike how easy it is to put a pinch between your cheek and gums?

A. No, I have not.

Q. Doctor Hook, have you ever sold a can of snuff to a teenager?

A. No, I have not.

MR. BRALY: No further questions.

THE COURT: Any further questions, Mr. Jennings?

MR. FINNEGAN: Just a very few, Your Honor.

RECROSS EXAMINATION

BY MR. JENNINGS:

Q. Actually, Doctor Hook, if you do a punch biopsy and it turns out negative, you haven't proved anything, have you?

A. If the pathologist was very happy with the tissue, yes, you may have proved something, that you

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1 have a benign lesion.

2 Q. May have. Punch biopsy is not doing

3 anything negative, is it?

4 A. It isn't, and I don't use them because there

5 is a problem of false negatives.

6 Q. Right. Now, very quickly. You talked about

7 polio. What causes polio?

8 A. That is a viral disease.

9 Q. Does anything else cause it?

10 A. Polio?

11 Q. Yes.

12 A. I couldn't tell you. I haven't read about

13 polio in years, as it's a disease before my time in

14 medicine.

15 Q. You don't know as a doctor that the only

16 thing that causes polio is the polio virus?

17 A. That is the only thing I am aware of .

18 Q. How about tuberculosis, what causes

19 tuberculosis?

20 A. It is microbacteria, something like a

21 bacteria.

22 Q. Anything else cause it?

23 A. Not to my knowledge.

24 Q. Now, you testified with regard to your

25 experience with the young cancers being aggressive.

http://legacy.library.ucsf.edu/tid/ccf07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/nzhl0001

1 You haven't had any experience with cancer in young
2 people of the tongue, have you?
3 A. Of the tongue?
4 Q. Yes.
5 A. No, sir.
6 Q. Now, let me ask you this. When Mrs. Marsee
7 came in on the 20th of April with Sean Marsee, if a
8 sister who is only a few years older than Sean had
9 come in on April the 5th, would that have been very
10 noticeable to you that this wasn't the same person
11 who came in the last time?
12 A. Not particularly if they look alike, have
13 the same skin coloring.
14 Q. Okay. Let me ask you this quickly about
15 Sean's consent. Do you think if you had told Sean
16 Marsee that you thought he had cancer and that you
17 better get it out that he would have consented?
18 A. What date are we talking about?
19 Q. April 5th, 1983.
20 A. I don't know.
21 Q. But you didn't do that, did you?
22 A. No, I did not.
23 Q. You didn't lay any pressure on him and say,
24 "Look, son, we are going to have to do something
25 about this," did you?

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1 A. No. I cannot make a judgment on personal
2 behavior and a person's personality in 20 minutes
3 time.
4 Q. Now, when you were testifying about delay in
5 reading from one of those articles, you were reading
6 about a delay between the onset of the condition and
7 the diagnosis, weren't you?
8 A. That's what it said.
9 Q. You weren't talking about a delay after
10 diagnosis before treatment, were you? That wasn't
11 what that had involved, was it?
12 A. No, that time would be included in there.
13 Q. What? It said very plainly onset and
14 diagnosis, didn't it?
15 A. Yes.
16 Q. Well, the onset of Sean's condition was,
17 however, many months before that he started having
18 tongue problems.
19 A. January, I believe.
20 Q. And the diagnosis was in April the 5th. So
21 that delay had already taken place and on top of that
22 you added another six weeks delay; is that right?
23 A. The diagnosis was not made April the 5th.
24 My suspected diagnosis was April the 5th.
25 Q. You were satisfied in your own mind he had

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Source: https://www.industrydocuments.ucsf.edu/docs/nzhl0001

1 cancer, weren't you?

2 A. Yes, I was.

3 Q. Okay. One other thing. When you were

4 reading that paragraph from this article -- let me

5 look at that one with you. Mr. Braly asked you to

6 read one sentence which said "no other etiologic

7 agents could be implicated in this series due to the

8 incomplete documentation."

9 It goes on and you can follow me through if

10 you like. "It is imperative that these patients that

11 have the following information documented in their

12 medical histories. One, a family history of cancer.

13 Two, cancer malformation syndromes. Three, genetic

14 predispositions. Four, maternal drug history during

15 pregnancy. Five, intrauterine exposure to ionizing

16 radiation. Six, exposure to ionizing radiation after

17 birth; and seven, exposure to immunosuppressive

18 drugs. Is that correct?

19 A. That's the heading.

20 Q. Did you get all that information in regard

21 to Sean?

22 A. No, I did not.

23 Q. You didn't get any of it, did you?

24 A. Yes, I did.

25 Q. Which did you get?

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1 A. I asked him about his exposure to agents
2 that I would consider carcinogenic.
3 Q. What else did you get?
4 A. I asked him about his past medical history.
5 Other than that, it was not pertinent to me because
6 it didn't make any difference how I was going to
7 treat his cancer or actually what caused it.
8 Q. What would make a difference?
9 A. It didn't make any difference as far as your
10 implicating that he might have had a maternal problem
11 before that he was born with.
12 Q. No, excuse me, doctor. I merely asked you
13 what this said and whether you did what this suggests
14 you should do. Don't assign motives to me I don't
15 have.
16 MR. BRALY: Objection, Your Honor.
17 THE COURT: Sustained. Just answer the
18 question and let's move on.
19 MR. JENNINGS: I apologize, Your Honor?
20 A. My answer, Mr. Jennings, is that you don't
21 have to answer all those questions to treat the
22 patient with cancer.
23 Q. (BY MR. JENNINGS) I understand that,
24 Doctor, but don't you have to answer them before you
25 start saying what caused the cancer?

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Source: https://www.industrydocuments.ucsf.edu/docs/nzhl0001

1 A. No. If you have a cause and effect and you
2 have something before you, then that sticks right out
3 and hits you right in the face. So I'm not going to
4 spend six months on his history of what happened to
5 him when he was two years old when I had something
6 that is a known causative factor in the area of head
7 and neck cancer like I operate on.
8 Q. And if you had one of those five Indian
9 children, the one who used chewing tobacco for a
10 year, you would have said that caused his cancer,
11 too, wouldn't you?
12 A. I don't know. I have absolutely no
13 knowledge of that case, other than what we read.
14 MR. JENNINGS: No further questions.
15 THE COURT: Anything further?
16 REDIRECT EXAMINATION
17 BY MR. BRALY:
18 Q. Doctor Hook, you recall that the Indian
19 child had used tobacco for one year?
20 A. I recall that being an article, yes, sir.
21 Q. How long -- you are taking a history -- had
22 Sean Marsee used tobacco?
23 A. He stated he used Copenhagen six years.
24 Q. Is there a difference in your opinion?
25 A. A difference in what, sir?

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1 Q. In the significance between having used it
2 for one year and six years?
3 A. Yes, sir.
4 MR. BRALY: Nothing further, Your Honor.
5 THE COURT: Anything further?
6 MR. JENNINGS: I have no further questions.
7 THE COURT: You may step down. May this
8 witness be excused?
9 MR. BRALY: Oh, I am sure he would like to
10 be, Your Honor.
11 MR. JENNINGS: No objection.
12 THE COURT: You are excused.
13 THE WITNESS: Thank you.
14 THE COURT: Ladies and gentlemen, we will
15 take our noon recess at this time. We will recess
16 until 1:30. Remembering my usual admonitions to you,
17 don't read or listen to anything about the case and
18 don't discuss the case with anyone and don't make up
19 your mind in the case until you have heard all of the
20 evidence.
21 Everyone remain seated while the jury exits.
22 (The following proceedings were had out of the
23 presence and hearing of the jury.)
24 THE COURT: Mr. Braly, is your next witness
25 the one we discussed, Henningfield?

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